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10/615,504	07/08/2003	Philippe Bazot	FR920020030US1	9216

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EXAMINER
SURVILLO, OLEG

ART UNIT	PAPER NUMBER
2142	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)
Office Action Summary		10/615,504	BAZOT ET AL.
		Examiner	Art Unit
		Oleg Survillo	2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>25 January 2007</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-12</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-12</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>08 July 2003</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Choquier et al. (5,774,668) in view of Agarwalla et al. (6,985,936).

As to claim 1, Choquier shows a method for directing service requests from user

workstations comprising client microcomputers (102) to the most available content

server comprising application servers (120) through a proxy server comprising a

Gateway microcomputer (126). Choquier shows looking in a context table comprising a

service map (136) in the proxy server to determine the content server able to provide

the requested service (col. 8, lines 7-9). It is inherent for the service request to be

defined by URL since the communication between client and content server via proxy is

established using TCP/IP protocol and HTTP being a request/response protocol

between client and content server (col. 5, lines 5-9). Choquier shows sending service

request from proxy server to determined content server (col. 8, lines 21-24) and sending

reply messages from determined content server to client via proxy server (col. 8, lines

25-27). Choquier shows updating context table in proxy server using service availability

token received from a content server (col. 10, lines 45-54) where service availability

token comprises local map (140) (col. 10, lines 66-67; col. 11, lines 1-12).

Choquier does not show that service availability request is appended to service

request from client because proxy server is configured to automatically request service

availability in predetermined time intervals (col. 10, lines 49-54). Choquier does not

show that service availability token is appended to reply from content server because

service map dispatcher (144) is configured to automatically request service availability

tokens from content servers (col. 10, lines 42-45), as well as removing service

availability token since it was not appended before.

Agarwalla shows that the service availability request comprising a content

distribution flag (col. 8 lines 23-30) is appended to service request from the user

workstation comprising augmenting HTTP GET request message with an HTTP header

containing the service availability request (col. 8 lines 43-47). Agarwalla shows

appending a service availability token comprising content distribution information (col.

10 lines 13-15) to the reply provided by said determined content server before sending

said reply from said determined content server to said proxy server comprising caching

system (col. 9 lines 64-67 and col. 10 lines 1-4). Agarwalla also shows removing said

service availability token from said reply upon reception thereof by said proxy server

(col. 12 lines 38-48).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the method of Choquier by appending a service availability request

to said service request, append a service availability token to the reply, and remove said

service availability token from the reply upon reception as taught by Agarwalla instead of periodically requesting service availability tokens from content servers in order to efficiently respond to service availability updates (col. 4 lines 57-59 in Agarwalla) from the content servers that are currently serving service requests and therefore are susceptible to changes in availability.

As to claim 2, Choquier shows that context table includes a plurality of entries (400) corresponding to several URLs comprising service names and associated with the same server name, where URLs refer to MAIL and BBS services that reside on the same server (120e) (col. 9, lines 27-30).

As to claim 3, Choquier shows that context table contains "availability" as a parameter for each entry associated with URL (col. 10, lines 66-67; col. 11, lines 1-7).

As to claim 4, Choquier shows that service request is rejected if the parameter comprising "minimum throughput requirement" in context table comprising service priority table (1220) is defined as not available.

Choquier does not show that service request is rejected if the parameter "availability" is defined as not available.

Examiner takes Official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Choquier to define the parameter "availability" as not available in order to specify that the parameter "availability" of zero indicates that the content server is heavily loaded and as a result, not available (col. 11, lines 6-7).

As to claim 5, Choquier shows that context table includes multiple entries for the same server as recited in claim 2 where the entry with the parameter "availability" comprising CPU LOAD being the highest one selected when looking for an entry, at the top of the context table comprising service availability token (Fig. 4, (140)).

As to claim 6, Choquier shows that context table contains a plurality of parameters (Fig. 4, CPU LOAD, CPU INDEX) associated with the service availability token received from content servers, these parameters being updated in the context server upon reception of service availability token (col. 10, lines 49-54). It is inherent that the parameters contained in the context table and associated with the service availability request are the same as the parameters in the service availability token since the service availability token returns the parameters requested.

As to claim 7, Choquier shows refreshing the entry of context table by taking into account variables comprising CPU LOAD and CPU INDEX values included in the context table, which are a function of parameter "availability" comprising FREE CPU and AVAILABLE CPU (col. 14, lines 60-67; col. 15, lines 1-3).

As to claim 8, Choquier shows that the context table contains "availability" as a parameter and serves to inform of change in state of any content server in the system (col. 11, lines 46-47).

Choquier does not show that parameter "availability" is set to "not available" when number of retries is equal to a predetermined maximum number.

Examiner takes Official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Choquier to set the

parameter "availability" as "not available" when number of retries is equal to a

predetermined maximum number in order to specify that the parameter "availability" of

zero indicates that the content server is heavily loaded and as a result, not available

(col. 11, lines 6-7).

As to claim 9, Choquier in view of Agarwalla shows that service request

comprising content request (500) Fig. 5 in Agarwalla is written in HTML (Fig. 7A in

Agarwalla) and said service availability request is contained is contained in a header of

HTTP service request (Fig. 7A (714) in Agarwalla).

As to claim 10, Choquier in view of Agarwalla shows that said service availability

token is in XML format (Fig. 9F, col. 11 lines 22-36 in Agarwalla).

As to claim 11, Choquier shows updating context table when receiving service

availability token from a content server (col. 10, lines 45-54) and changing parameter

"availability" by overwriting its old value with the updated value, based on the last

received token (col. 10, lines 54-57; col. 11, lines 10-12).

As to claim 12, Choquier shows means for implementing the steps of claim 1

such as user workstations comprising client microcomputers (102), content servers

comprising application servers (120), a proxy server comprising a Gateway

microcomputer (126), context table comprising a service map (136), and service

availability token comprising local map (140).

Response to Arguments

1.   With regard to the Applicants' remarks filed on 01/25/2007:

Regarding the objection to the specification and claims 2, 3, and 6, the amendments to address the objections have been considered and are deemed persuasive. Therefore, said objections have been withdrawn.

Regarding the rejection of claims 1-11 under 35 USC 101, the arguments have been considered and are deemed persuasive.

Regarding the rejection of independent claim 1 under 35 USC 103(a) as being unpatentable over Choquier in view of Masters, the arguments have been considered and are deemed persuasive.

Therefore, said rejections have been withdrawn. However, upon further consideration, new grounds of rejection are made in view of the references identified above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oleg Survillo whose telephone number is 571-272-9691. The examiner can normally be reached on M-Th 7:30am - 5:00pm; F 7:30am - 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Oleg Survillo

Date: April 18, 2007

Phone: 571-272-9691

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER